

1 **BEFORE THE BOARD OF COMMISSIONERS**

2 **FOR LINCOLN COUNTY, OREGON**

3 ORDINANCE # 393

4 _____
5
6 **Relating to telecommunications; amending LCC 2.4000; and declaring an emergency.**
7 _____

8 WHEREAS ORS 190.030 provides that a unit of local government may enter into a
9 written agreement with any other unit or units of local government for the performance of
10 any function that a party to the agreement has authority to perform, and

11 WHEREAS Lincoln County has had discussions with several other units of local
12 governments, including Lane County and the cities of Florence, Coos Bay, Eugene,
13 Springfield, Reedsport and others regarding the formation of an entity by way of an
14 intergovernmental agreement for the purpose of mutual assistance in achieving the common
15 goal of better and more advanced telecommunications services in the area; and

16 WHEREAS that entity has now been created by those governments and Lincoln
17 County desires to participate as a member of that entity for mutual public benefit; therefore,
18 The Lincoln County Board of Commissioners ordains as follows:

19 **SECTION 1.**

20 LCC 2.4000 is amended to read:

21 2.4000 CoastNet **and Other** Fiber Optic Communications Networks

NOTE: Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing ordinance to be omitted. New sections are in **boldfaced** type.

1 (1) The Lincoln County Board of Commissioners declares that the development of a
2 high-speed fiber optic communications network in Lincoln County is vital to economic
3 development in Lincoln County, and therefore hereby specifically exercises its authority to
4 pursue the development of such a network.

5 (2) Lincoln County, the Economic Development Alliance of Lincoln County, the
6 Central Lincoln People’s Utility District, and 36 other public and non-profit organizations
7 have proposed to encourage economic development in Lincoln County by way of providing
8 a high-speed fiber optic communications network along the central Oregon coast commonly
9 known as CoastNet. CoastNet would combine, by contract between the County and the
10 Alliance, an unswitched fiber optic cable system (dark fiber), owned by the Central Lincoln
11 People’s Utility District and shared with the County through an ORS chapter 190
12 intergovernmental agreement, with fiber optic data transmission switches owned by the
13 Alliance and purchased with grant money currently being held for that purpose by the
14 Oregon Economic Development Department. Under the proposed CoastNet contract
15 between the County and the Alliance, the Alliance would then offer CoastNet services to
16 certain businesses and certain resellers of CoastNet services in an effort to encourage
17 economic development in Lincoln County.

18 (3) In order to facilitate the development of the proposed CoastNet system described
19 in subsection (2) of this section, **and in order to facilitate Lincoln County’s participation**
20 **and membership in the Fiber South Consortium described in subsection (4) of this**
21 **section**, the Office of Lincoln County Legal Counsel is hereby authorized to engage in all
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1 legal proceedings and processes necessary to facilitate that development, **participation and**
2 **membership, including, but not limited to, application for any required or appropriate**
3 **licenses and certificates, and negotiation of any necessary or appropriate**
4 **interconnection agreements.**

5 (4)(a) **It is the intent of the Lincoln County Board of Commissioners to also join**
6 **an intergovernmental entity, to be known as the Fiber South Consortium, created by**
7 **an intergovernmental agreement entered into by a number of local governments within**
8 **counties that border along the southern Oregon coast, including, among others, Lane**
9 **County and the cities of Florence, Coos Bay, Eugene, Springfield, and Reedsport.**

10 (b) **The effective date of Lincoln County's membership in the South Fiber**
11 **Consortium shall be January 1, 2000, or such later date as necessary when all interim**
12 **steps for membership have been accomplished allowing membership in the Fiber South**
13 **Consortium.**

14 (c) **The public purposes for which the Fiber South Consortium shall be created**
15 **shall be:**

16 (A) **To assume ownership and control of fiber optic cable obtained by the**
17 **consortium, or by any member government, that the government, in its discretion,**
18 **deems it is appropriate to contribute to the consortium;**

19 (B) **To provide for the members a fiber optic system, or components thereof,**
20 **that, consistent with available resources, best serves the public interest in an efficient**
21 **manner;**

1 **(C) To provide a forum for communication and consultation among members**
2 **and to provide an opportunity for a cooperative and equitable sharing of the expenses,**
3 **data, expertise, experience and plans of each unit of local government;**

4 **(D) If feasible for and agreeable to some or all of the members, take joint or**
5 **common action to provide the appropriate level of communication services to the**
6 **citizens of the various jurisdictions; and**

7 **(E) To acquire such additional tangible and intangible assets as are deemed**
8 **necessary to fulfill the other purposes of the consortium.**

9 **(d) The powers, duties and functions of the Fiber South Consortium shall be:**

10 **(A) Plan for fiber optic system development for the consortium.**

11 **(B) Direct and manage the use of a fiber optic system or systems obtained by the**
12 **consortium or its members.**

13 **(C) When requested, act as the agent of the members in the preparation and**
14 **negotiation of agreements concerning the acquisition, management and use of the**
15 **consortium's fiber optic systems.**

16 **(D) Carry out further responsibilities and functions as provided by the**
17 **members.**

18 **(e) The Office of Lincoln County Legal Counsel is hereby authorized and**
19 **directed to evidence this ratification of membership in the Fiber South Consortium by**
20 **executing, on behalf of Lincoln County, a copy of an "Intergovernmental Agreement to**

21 **Establish a Consortium of Local Governments for the Ownership and Operation of a**

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1 **Fiber Optic System,” substantially in the form of a draft dated June 1, 1999, with such**
2 **changes as the Office determines are not inconsistent with the provisions and intent of**
3 **this ordinance, such determination to be evidenced by execution of the agreement.**

4 **SECTION 2.**

5 This Ordinance being necessary for the immediate preservation of the public peace,
6 health and safety, an emergency is declared to exist and this Ordinance shall take effect upon
7 its passage.

DATED this 29th day of December, 1999.

LINCOLN COUNTY BOARD OF COMMISSIONERS

Don Lindly, Chair

Jean Cowan, Commissioner

Karen L. Gerttula, Commissioner

ATTESTED TO:

APPROVED AS TO FORM:

Susan Kays, Recorder

Wayne Belmont, County Counsel